

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.1022 of 2001

The Management of
Metropolitan Transport Corporation,
Rep. by its Managing Director,
Chennai Division-I Ltd.,
Formerly Pallavan Transport
Corpn. Ltd., Chennai-600 002. Appellant

vs.

1. K.Alfred
2. The Presiding Officer,
The Principal Labour Court, Madras. Respondents

Appeal under Clause 15 of the Letters Patent against the order of the learned single Judge (PDDJ), dated 23.12.1998, made in W.P. No.10367 of 1992 presented to this court under Article 226 of Constitution of India to issue a Writ of Certiorari calling for the records connected with the Award the Principal Labour Court, Madras in ID.No.865 of 1992 dated 10.12.1991 in so far as it has denied back wages to him.

For Appellant : Mr.V.R.Kamalanathan.
For R-1 : Mr.S.Sathiamurthy

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above Writ Appeal has been filed against the order of the learned single Judge dated 23.12.1998, made in W.P. No.10367 of 1992, in and by which, the learned Judge directed the Management/Transport Corporation to pay 75% of the backwages within 12 weeks from the date of receipt of copy of his order.

2. Heard learned counsel for the appellant/Transport Corporation and the first respondent/workman.

3. In the light of the judgment to be passed here-under, there is no need to refer all the factual matrix as stated in the affidavit.

4. The only point for consideration in this appeal is as to whether the direction of the learned single Judge granting 75% of the backwages in favour of the workman is justified.

5. It is clear from the order of the labour court dated 10.12.2001 that the charges levelled against the workman have not been proved. No doubt, the Management had also considered his past record. The Labour Court, after analysing the materials placed before it and after finding that dismissal from service is not warranted, ordered reinstatement without backwages. Though the Labour Court rightly ordered reinstatement, it refused to grant the backwages; however, the learned single Judge has granted backwages to the extent of 75%. In view of the factual finding of the Labour Court, we are of the view that the workman is entitled not only to reinstatement but also backwages for the period he was out of service.

6. Though learned counsel for the appellant/Transport Corporation questioned the findings/observations of the labour court, fact remains, the order of the Labour Court was challenged only by the workman by way of Writ Petition and not by the Management, in such circumstances, they cannot raise such an objection at this point of time. Further, the learned single Judge, for granting backwages to the extent of 75%, has relied on a decision of the Apex Court reported in 1998 (2) Supreme 127 (Colour Chem. Ltd. v. A.L. Alaspurkar & Ors.).

7. Looking at any angle, we do not find any valid ground for interference. On the other hand, we are in entire agreement with the conclusion arrived by the learned single Judge. Writ Appeal fails and the same is dismissed. Counsel appearing for the appellant submits that pursuant to the order of the learned single Judge, the backwages, as ordered by him, have been deposited. In such circumstances, in view of the dismissal of the Writ Appeal, the first respondent/workman is permitted to withdraw the same.

JI.

Sd/
Asst.Registrar

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Sub Asst.Registrar

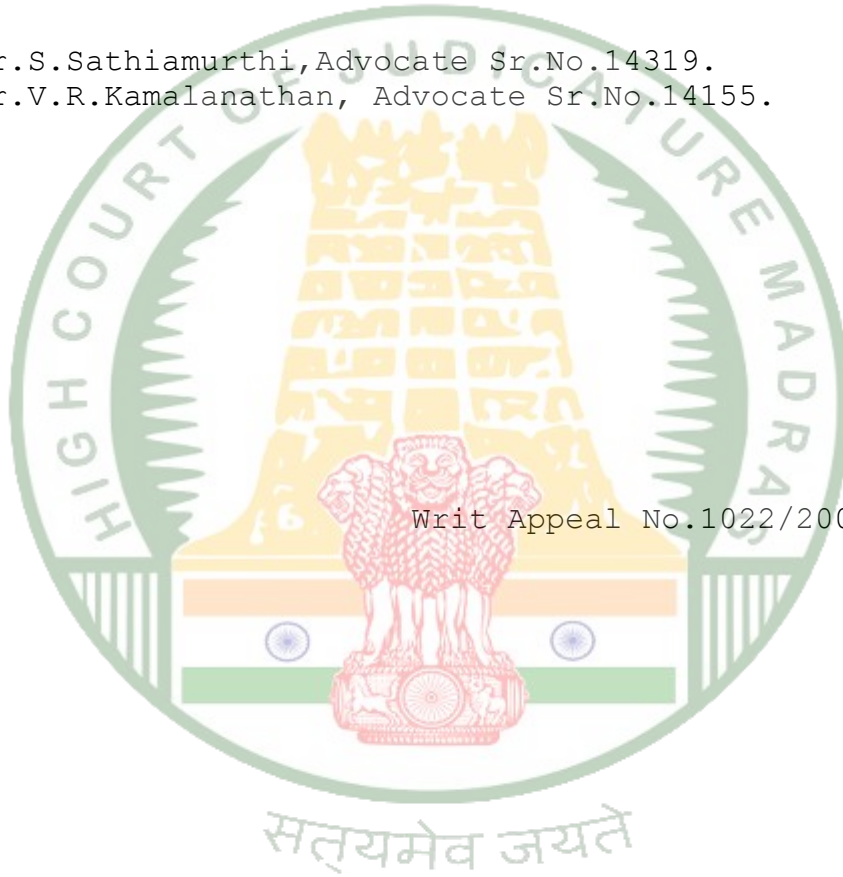
To

1.The Presiding Officer
The Principal Labour Court
Madras.

2.The Managing Director
The Management of Metropolitan Transport
Corporation Ltd., Chennai Divn. I Ltd.,
Formerly Pallavan Transport Corporation Ltd.,
Chennai-2.

+ one cc to Mr.S.Sathiamurthi, Advocate Sr.No.14319.
+ one cc to Mr.V.R.Kamalanathan, Advocate Sr.No.14155.

AK (CO)
RSM/4.4.2006



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